

May 11, 2000

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT

SUBJECT: Department of Development and Environmental Services File No. **L98P0043**

NORWAY KNOLL
Preliminary Plat Application

Location: On the west side of 112th Avenue Northeast, between Northeast 160th Place and Northeast 164th Place.

Applicant: Jacobson Development Corporation, *represented by*
Jeff Jacobson
204 Bellevue Way #236
Bellevue, WA 98004

King County: Department of Development and Environmental Services,
Land Use Services Division, Current Planning, *represented by*
Keri Akers
900 Oakesdale Avenue Southwest
Renton, WA 98055-1219
Telephone: (206) 296-6758 Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Approve
Department's Final Recommendation:	Approve
Examiner's Decision:	Approve

PRELIMINARY MATTERS:

Application or petition submitted:	November 24, 1998
Complete application (for vesting):	March 22, 1999

EXAMINER PROCEEDINGS:

Hearing Opened: May 9, 2000
Hearing Closed: May 9, 2000

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Wetland buffer averaging
- Significant tree retention

SUMMARY:

The preliminary plat application is approved.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Owner:	Russell Proctor 16225 – 112 th Avenue NE Bothell, WA 98011
Applicant:	Jeff Jacobson Jacobson Development Corporation 203 Bellevue Way, Suite 236 Bellevue, WA 98004 Telephone: (425) 803-9462
Engineer:	Group Four, Inc. John Mirante, Project Manager 16030 Juanita-Woodinville Way NE Bothell, WA 98011 Telephone: (425) 775-4581
STR:	17-26N-5E
Location:	On the west side of 112 th Avenue NE, between NE

160th Place and NE 164th Place

Existing Zoning:	R-4 (residential units/acre)
Acreage:	4.78
Number of Lots:	19
Proposed Density:	3.97 dwelling units per acre
Typical Lot Size:	4,500 to 5,000 square feet
Proposed Use:	Single family residences
Sewage Disposal:	Northshore Utility District
Water Supply:	Northshore Utility District
Fire District:	King County Fire District No. 36
School District:	Northshore School District
Complete Application Date:	November 24, 1998

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the May 9, 2000 public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.
3. Jacobson Development Corporation has submitted a preliminary plat application to subdivide 4.7 acres within the R-4 zone into 19 single-family residential lots. The property is located on the west side of 112th Avenue Northeast just west of the Bothell city limits. The parcel features slopes on both the western and eastern boundaries descending into a low central area that contains a Class 2 Wetland.
4. An adjacent property owner to the north, Mr. Jim Bouey, raised questions at the public hearing concerning the preservation of on-site wetlands and significant trees. The Applicant intends to reduce the buffers for the Tract B wetland within the western half of the property to 35 feet adjacent to abutting lots and the internal roadway, while increasing the buffer contiguous to the wetland in the property's southwest corner. Some buffer averaging appears inevitable if access is to be provided to the western portion of the site, and the sloped area in the southwest corner is an appropriate replacement area because it provides a mature tree canopy plus connectivity to undeveloped parcels further west.
5. The Applicant will be required to meet significant tree retention requirements as set out in the SO-220 overlay development condition. In view of the small lots proposed and the amount of grading anticipated for roadway and site development, Mr. Bouey's skepticism about meeting significant tree retention requirements is probably justified. It would seem unlikely that much in the way of significant tree retention will occur in the site's northwest and southeast corners, and the Applicant may be forced to rely on the often less than satisfactory option of tree replacement. Individuals interested in the significant tree retention requirement would be well-advised to monitor the project through the grading permit and engineering plan approval stages.

CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.

2. The conditions of approval imposed herein, including dedications and easements, will provide

improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat of Norway Knoll as revised and received on March 6, 2000 is APPROVED, subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the base density (and minimum density) of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat that do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 8041, as amended.
6. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual (KCSWDM). DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

" Single family residences constructed on lots created by this subdivision must provide perforated stub-out connections according to the details shown on the approved plans. All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #_____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

- d. Core Requirement No. 1: Discharge at the Natural Location The applicant has received approval for the requested diversion of surface water within the project (See Adjustment File L99V0342, Attachment 3). The conditions for adjustment/variance approval shall be satisfied during design and review of the project engineering plans.

- e. Core Requirement No. 2: Off-site Analysis

The applicant's downstream analysis identified some moderate erosion problems associated with the downstream path over ¼ mile from the site. The level of flow control required for this site adequately mitigates for the downstream erosion problem, and as a result, no further mitigation is required.

- f. Core Requirement No. 3: Runoff Control.

Storm water runoff control shall be provided using the 1998 King County Surface Water Design Manual Level Two Flow Control design criteria. The runoff control facilities shall be located in a separate tract and dedicated to King County, unless portions of the drainage tract are used for required recreation space in accordance with KCC 21A.14.180.

As specified in Section 5.1 of the 1998 KCSWDM, roof drain storm water shall be infiltrated or dispersed within the lot area if the soil conditions are favorable.

- g. Core Requirement No. 4: Conveyance Systems.

The 4-inch ADS outlet pipe from the existing wetland in Tract B that connects to the downstream wetland in Tract A shall be replaced and sized to pass the 100-year developed flow. The pipe's inlet invert shall be set to maintain the hydrology of the wetland subject to review by County Sensitive Area staff during engineering review.

- h. Core Requirement No. 8: Water Quality.

The plat is subject to the Basic Water Quality requirements of the 1998 KCSWDM.

- i. Special Requirement No. 2: Floodplain/Floodway Delineation.

The wetlands in the central and northern portion of the site may be classified as closed

depressions. The applicant's engineer shall evaluate the applicable criteria for closed depressions and address the requirements on the final engineering plans. The 100-year floodplain boundaries shall be shown on the final engineering plans and recorded plat.

8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. During preliminary review the applicant submitted a road variance application (Variance File No. L99V0311, Attachment 4), regarding entering sight distance. The variance received approval on 7/2/99.
 - b. NE 161st Place shall be improved as an urban subaccess street.
 - c. The frontage street, 112th Avenue NE, is a collector arterial within the jurisdiction of the City of Bothell. The existing 30 feet of right-of-way has been deemed adequate by the City of Bothell, which will be responsible for reviewing the frontage improvements (see Attachment 2). Approval from the City shall be obtained prior to final approval of the site engineering plans by King County. Frontage improvements will include, but may not be limited to, curb and gutter, storm drainage collection and conveyance, roadway widening, asphalt pavement, relocation of existing utilities, 5-foot planter strip between curb and sidewalk and 5-foot concrete sidewalk. A 10-foot franchise utility easement will be required beyond the right-of-way parallel to 112th Avenue NE.
 - d. The unnamed tract off of the cul-de-sac shall be designed as a private joint-use driveway serving proposed lots 8 and 9. These lots shall have undivided ownership of the tract and be responsible for its maintenance. Improvements shall conform to KCRS 3.01C, including 18 feet of paving and minimum tract width of 20 feet. Drainage control shall include a curb or thickened edge on one side.
 - e. As required by KCRS 5.03, street trees should be included in the design of all road improvements.
 - f. Street illumination shall be provided at intersections with arterials in accordance with KCRS 5.03.
 - g. 112th Avenue NE is designated a collector arterial street which may require designs for bus zones and turn-outs. As specified in KCRS 2.16, the designer shall contact Metro and the local school district to determine specific requirements.
 - h. The existing 30-foot ingress/egress easement along the north property line shall be vacated prior to final plat recording.
 - i. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option

is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid"; if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.

10. Lots within this subdivision are subject to King County Ordinances 10162 and Ordinance 12532, which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
11. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

12. No building foundations are allowed inside the required 15-foot building setback line, unless otherwise provided by law. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Prior to engineering plan approval, the applicant shall provide notice on title as outlined in KCC 21A.24.170. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to commencing construction activities on the site.
 - a. The Forested Class II wetlands (Wetlands A and B) shall have a 50-foot buffer of undisturbed vegetation as measured from the wetland edge. Buffer averaging is acceptable so long as the provisions of KCC 21A.24.320B are satisfied. The minimum

buffer width along the eastern portion of Wetland B shall be no less than 35 feet.

- b. The wetlands and buffer areas shall be placed in Sensitive Area Tracts (SATs), and shall be recorded on all documents of title of record for all affected lots.
 - c. A minimum 15-foot building setback line shall be established from the outer edge of the SATs.
 - d. As agreed to by the applicant in a letter dated February 28, 2000 (Attachment 5), a split rail fence shall be placed along the backs of lots 10 through 14 to provide additional protection for Wetland B and its buffer area.
 - e. Prior to commencing construction activities on the site, the applicant shall mark the SATs in a highly visible manner, and this area must remain so marked until all development activities in the vicinity of the sensitive areas are completed.
 - f. Prior to final approval of construction activities on the site, the SATs shall be delineated and permanently signed in accordance with KCC 21A.24.160. The sign details shall be shown on the engineering plans.
 - g. Prior to final recording, the engineering plans shall be submitted to the DDES sensitive areas group for review and approval.
13. Suitable recreation space shall be provided, consistent with the requirements of KCC 1A.14.180. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
- A performance bond for recreation space improvements shall be posted prior to recording of the plat.
14. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the sensitive areas tracts and recreation area.
15. The following conditions shall apply to implement the P-suffix conditions on this property: KCC 16.82.150D (Seasonal Clearing Restrictions): From October 1 through March 31, clearing and grading shall only be permitted if shown to the satisfaction of DDES that silt-laden runoff exceeding standards in the King County Surface Water Design Manual will be prevented from leaving the construction site. Certain activities, such as routine maintenance of public facilities and utilities, and landscaping of single-family residences, are exempt from this provision.

SO-220 (Significant Trees Special District Overlay): Significant trees located in the interior of the development proposal, including sensitive areas or their buffers, shall be retained in a

residential subdivision at the rate of 20 trees per acre or ten percent of such trees, whichever is

greater. A significant tree inventory shall be submitted for review prior to or with submittal of development permit applications. A detailed tree retention plan shall be submitted for review prior to or with submittal of grading permit applications or other permit applications incorporating grading plans.

ORDERED this 11th day of May, 2000.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 11th day of May, 2000, to the following parties and interested persons:

Ann Aagaard
William Bender
Sea Sen & Ah Ling Chao
City of Bothell
Paul & Vicki Cronin
Michael Denton
Roger Dorstad
Herb Fregia
Group Four, Inc
C. Mitchell Hart
Jeff Jacobson
Donald R. Johnson
Nils & Nikki Juhlin
King County Envir Health Division
Alex Kosmin
John Lienhard
Aileen McManus
Steven C. Townsend

Linda Matlock
Mike Rhamy & Kim Lyons
Eleanor Moon
John & Rebecca Powers
Russell Proctor
Promontory Homeowners Assoc.
Robert Rygg
Cecilia Youngs
Gina Yu
Keri Akers
Mark Bergam
Greg Borba
Steve Bottheim
Laura Casey
Kim Claussen
Kristen Langley
Carol Rogers

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before May 25, 2000***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before June 1, 2000***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further

MINUTES OF THE MAY 9, 2000 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L98P0043 – NORWAY KNOLL:

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were Kari Akers and Mark Bergam. Participating in the hearing and representing the Applicant was John Mirante of Group Four. Public testimony participant(s): Jim Bouey.

The following exhibits were offered and entered into the record:

- | | |
|----------------|--|
| Exhibit No. 1 | DDES File No. L98P0043 |
| Exhibit No. 2 | DDES Preliminary Report to the Hearing Examiner, dated April 25, 2000 |
| Exhibit No. 3 | Application, dated October 28, 1998 |
| Exhibit No. 4 | Environmental Checklist, dated October 28, 1998 |
| Exhibit No. 5 | Declaration of Non-significance, dated November 16, 1999 |
| Exhibit No. 6 | Affidavit of Posting indicating December 10, 1998 as date of posting and December 16, 1998 as the date the affidavit was received by DDES. |
| Exhibit No. 7 | Plat map, dated March 6, 2000 |
| Exhibit No. 8 | Land Use Map (Kroll) 413E |
| Exhibit No. 9 | Assessors Maps NW 16-26-5 |
| Exhibit No. 10 | December 17, 1999 memo from Terra Assoc. to John Mirante re: steep slope stability. |
| Exhibit No. 11 | Correction to Condition 12a. |

